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- a) providing a sheet of dough having a first surface with a skin and a second surface with a second skin;
- b) providing a dough cutting apparatus comprising a plurality of structures having an outer periphery comprising a cutting edge and an inner periphery comprising a blunt edge dough engaging portion with a dough shaping surface, wherein the outer periphery is a geometric figure capable of being nested within other similarly shaped geometric figures and wherein the inner periphery is a different shape;
- c) causing the plurality of structures to contact the dough sheet thereby causing the inner periphery to draw the first skin toward the second skin without breaking the dough sheet until the first skin and the second skin become substantially pinched together; and
- d) causing the outer periphery to sever the dough sheet thereby creating a plurality of dough pieces.

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#### REMARKS

The Office Action dated August 27, 2001, has been received and carefully reviewed.

The above amendments along with the following remarks are submitted to be fully responsive thereto. It is further submitted that this amendment and response is timely filed in the shortened-statutory period. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

#### Change of Attorney Docket Number:

Please note that the attorney docket number for this matter has been changed to PIL0031/US. It is respectfully requested that the records of the United States Patent and Trademark Office pertaining to this application be updated to reflect this changes.

#### Claim Objections

The Examiner has objected to claims 67 and 71 for the recitation of 'serving' where it otherwise appears that 'severing' should be recited. With this response, Applicants have canceled claim 67 and amended claim 71 to recite 'severing' rather than 'serving', thereby obviating this objection.

**Claim Rejections under 35 USC §112**

The Examiner has rejected claims 60-70 and 73-74 under 35 USC §112, second paragraph, asserting that these claims are indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These rejections are respectfully traversed.

Specifically, the Examiner has so rejected claim 60 for its recitation of ‘at least approximately 6mm thick’, asserting that it is not clear which dimension of the blunt dough engaging portion would be considered ‘thick’. This rejection is respectfully traversed. The term ‘thick’ has a common and accepted usage, is used in Applicants specification in a manner consistent with this common accepted definition so that one of ordinary skill in the art would clearly understand what is intended. As such, the term ‘thick’ cannot be said to be indefinite, and the withdrawal of this rejection is appropriate and respectfully requested.

The Examiner has further rejected claims 60-61 and 63 for their recitation of ‘at least a surface portion that is not perpendicular to its direction of extension’, asserting that it is not clear what a ‘direction of extension’ is, nor is it clear what ‘it’ is. Applicants disagree that the phrase ‘direction of extension’ is indefinite. Clearly, as is plain from the wording, the phrase ‘direction of extension’ refers to that direction in which an object extends. As used, direction of extension thus refers to that direction in which the blunt dough engaging portion extends. Further, Applicants have amended claims 60-61 and 63 to replace ‘its’ with appropriate verbage so indicating. Inasmuch as the phrase ‘direction of extension’ is definite, and Applicants have amended the claims to remove the term ‘its’, it is respectfully submitted that this rejection has been obviated and/or overcome and withdrawal of the same is respectfully requested.

The Examiner has additionally rejected claim 67 for its recitation of a cutter edge for severing the dough, asserting that it is not clear how both the dough shaping surface and the cutter edge each can sever the dough. Applicants have now canceled claim 67, thereby rendering this rejection moot, and withdrawal of the same is respectfully requested.

The Examiner has also rejected claim 68 based upon this claims recitation of ‘when viewed similarly’, asserting that it is not clear what types of views would be similar. Applicants have amended claim 68 to remove this phrase, thereby obviating this rejection.

Finally, the Examiner has rejected claims 69 and 73 for their recitation of the phrase “capable of being nested within other similarly shaped geometric figures”, asserting that it is not clear what other figures would qualify as “similarly shaped” or what is meant to be conveyed by stating that they are “capable of being nested”. This rejection is respectfully traversed. Again, the terms utilized in this phrase have common meanings. Similarly shaped, as the words imply,

means shapes that are similar. Both 'shapes' and 'similar' are words that have common definitions associated therewith. Analogously, the phrase 'capable of being nested' is comprised of words with common, accepted definitions, e.g., Merriam Webster's Ninth Collegiate Dictionary defines 'nested' as meaning 'to fit compactly together'. Furthermore, one example of a dough cutting apparatus that could be so described is illustrated in Figure 11B of the present specification. Clearly, one of ordinary skill in the art is capable of understanding the scope of a phrase comprised of several terms having known and readily available definitions when an example of the same is provided. As such, it cannot be said that these terms, nor the phrase formed therefrom, are indefinite. Withdrawal of this rejection is thus appropriate and is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §102 and 103**

The Examiner has rejected claim 71 under 35 U.S.C. §102 (b) as being anticipated by Carollo (US Patent No. 5,622,742). Specifically, the Examiner asserts that Carollo teaches a method of cutting a dough sheet by providing a dough sheet with two surfaces and pinching the dough surfaces together while shaping and cutting the dough sheet with a blunt cutter. The Examiner has additionally rejected claims 60-63 under 35 USC 103(a) as being unpatentable over this same reference, asserting that Carollo teaches a dough cutting device comprising a rounded blunt portion which pinches the dough surfaces together and then cuts them. The Examiner further asserts that it would have been obvious to one of ordinary skill in the art to adjust the size and curvature of Carollo as would be done in the normal course of experimentation. These rejections are respectfully traversed.

Applicant's invention provides a dough cutting apparatus and method that can be used not only to cut, but to *sequentially cut and shape* a dough sheet to provide a plurality of dough pieces in one processing step. The novel cutter and method are able to perform these two functions in one processing step by virtue of movable cutter having a blunt edge cutting portion comprising a dough shaping surface, which provides the above described stretching and shaping function. As such, an apparatus including such a movable cutter can be used to sequentially form a plurality of dough pieces having an aesthetically pleasing appearance. Prior to Applicants' invention, e.g., if it was desired to produce a plurality of dinner rolls with an aesthetically pleasing, rounded appearance, it was necessary to first cut a dough sheet to provide a plurality of dough pieces with the shape of a solid cylinder. These dough pieces were then further manipulated or processed to provide the dough pieces with a more desirable rounded appearance prior to being further processed. The present inventive cutter and method are capable of

sequentially and releasably producing a plurality of dough pieces with such a desired shape in one processing step.

Contrary to the Examiner's assertion, Carollo does not teach a method of sequentially providing a plurality of dough pieces for further processing as is now recited in Applicants claim 71. What Carollo, in fact, does teach is method of preparing plural stuffed pizzas or plural stuffed sandwiches within a single pizza pan at one time. The plural stuffed pizzas of Carollo are not formed utilizing a dough cutting and forming apparatus having a movable cutter comprising a blunt dough engaging portion, nor is there any suggestion that the same would be desirable. Rather, Carollo teaches forming the pizzas within the pizza pan utilizing a pressure source, such as a rolling pin. The rolling pin clearly is no more a movable cutter having a blunt dough engaging portion than is the pizza pan. Moreover, Carollo teaches that the formed pizzas are desirably baked within the same pan, i.e., the pizzas are not removed from the pan prior to cooking. As such, it cannot be said that the method of Carollo teaches the release of a plurality of dough products from a cutter (also nonexistent in Carollo) for further processing.

Given that there is absolutely no teaching or suggestion in Carollo of a method of sequentially providing a plurality of dough products for further dough processing including using a movable cutter to form and cut a plurality dough pieces and causing the plurality of dough pieces to be released from the moveable cutter, it cannot be said that Carollo anticipates the present invention as recited in claim 71. Withdrawal of this rejection is thus appropriate and is respectfully requested.

The Examiner has further applied the Carollo reference to claims 60-63, asserting that these claims are unpatentable over this reference in that it shows a dough cutting device comprising a rounded blunt portion and that only routine experimentation would be required to arrive at the exact size and curvature taught in Applicants specification. In order to meaningfully apply this reference to apparatus claims 60-63, it is necessary to conclude that the pizza pan taught by Carollo is a cutter. As stated above, the pizza pan of Carollo is no more a cutter than is the rolling pin used to apply pressure downward to force the top dough sheet onto the pizza pan. Furthermore, claims 60-63 have now been amended to recite a movable cutter for sequentially and releasably forming and cutting a dough sheet into a plurality of dough products. The pizza pan of Carollo, not being a cutter at all, is clearly not a movable cutter. Further, the pizza pan of Carollo is not taught to be used sequentially provide a plurality of dough products for further processing, rather it is desirably used to provide one plurality of dough products which are prepared and cooked in the same pizza pan. That is, the pizzas formed in the pizza pan are not

removed therefrom for further processing, but rather are processed to completed product, i.e., a baked pizza, in the pizza pan.

Furthermore, one of ordinary skill in the art in possession of Carolla would not be motivated to alter the teachings thereof to arrive at such a movable cutter, since the same is not even suggested in the Carollo reference. That is, the Carollo reference is directed to a pizza pan within which pizzas may be both prepared and cooked - there is no teaching or suggestion that the pan may even be used for anything other stuffed pizzas or sandwiches, much less a teaching that the pizza pan may advantageously be used as a movable cutter to sequentially provide dough pieces from a dough sheet. The teachings of Carollo do not then render claims 60-63 obvious, and withdrawal of this rejection is appropriate and respectfully requested.

The Examiner has additionally rejected claims 71-74 under 35 U.S.C. §102 (b) as being anticipated by Makowecki (US Patent No. 5,687,638) and has rejected claims 60-64 and 67-70 under 35 USC 103(a) as being unpatentable over this same reference. This rejection is respectfully traversed.

The Makowecki reference teaches methods of preparing a plurality of filled food products. In particular, Makowecki teaches that a plurality of filled food products may be efficiently prepared by co-extruding multiple cylindrical filled food shells onto a conveyor that conveys the shells into partitioning contact with a cutting means, such as a stamping die. The stamping die is shaped so that the partitioned filled food products produced will bear a traditional shape, i.e., the stamping die is shaped to provide the filled food products with a peripheral border or seal edge. See, Makowecki, column 2, lines 9-16 and column 3, lines 36-49.

The stamping die of Makowecki is thus completely different and distinguishable from the movable cutter recited in Applicants claims 71-74. That is, the stamping die of Makowecki uses peripheral sealing lips 41 to provide a desired border or seal edge to the filled food products, while peripheral cutting edge separates the filled food products from the cylindrical filled food shell. To the contrary, the movable cutter recited in Applicants claim 71 has dough shaping surface which *both shapes and cuts* the dough sheet to provide the plurality of dough pieces. Makowecki does not teach a single blunt surface that can be used to both shape and cut a dough product.

In fact, to try to force an interpretation of Makowecki in which sealing lips 41 would be capable of severing the cylindrical filled food shells would be directly contrary to the teachings of this same reference - that the purpose of the sealing lips is to provide a food product with the traditional appearance, i.e., having a peripheral border, while yet avoiding excessive waste of

materials. If a construction of Makowecki were allowed in which sealing lips 41 cut cylindrical filled food shell, the resulting food products would not have the taught desirable appearance.

Inasmuch as Makowecki does not teach each and every element of independent claim 71, it cannot be said that this reference anticipates this claim, or the claims dependent therefrom. Withdrawal of this rejection is thus appropriate and is respectfully requested.

With respect to claim 73, Applicants respectfully assert that, Makowecki does not, nor do any of the Examiner's other cited references, teach or disclose a dough cutting apparatus having a plurality of structures having inner and outer peripheries with different geometries, the inner periphery having blunt edge dough engaging portion and the outer periphery having a cutting edge, so that when the plurality of structures are caused to contact a dough sheet the inner periphery shapes the dough, while the outer periphery severs the dough sheet.

The Examiner seems to be asserting via reference to Figure 5 of Makowecki in connection with this particular rejection that the cutting edge 39 comprises an outer periphery and that sealing lips 41 comprise an inner periphery. However, this interpretation is nonsensical. The term 'periphery' is a common term and has associated therewith an accepted and well-known definition, i.e., an external boundary of a thing. Clearly both cutting edge 39 and sealing lips 41 are each part of the same external boundary of stamping die 38 and as such clearly not individually an outer periphery and inner periphery. Figure 3 of Makowecki shows a view of what can most appropriately be termed a dough cutting apparatus comprising a plurality of structures as is recited in claim 73, and as is shown, the inner and outer peripheries of the structures are not of a different shape, but rather are the same, i.e., the inner and outer peripheries of the structures of Makowecki are both semicircular.

Since Makowecki does not teach or suggest each and every element of claim 73, this reference cannot be said to anticipate this claim, nor the claim dependent therefrom. Withdrawal of this rejection is thus appropriate and is respectfully requested.

With respect to claims 60-64, and as discussed above in connection with claim 70, the cutter of Makowecki comprises sealing edges 41 and cutting edge 39. Neither sealing edges 41 nor cutting edge 39 both shape and cut, rather sealing edge 41 crimps and shapes the filled food cylinder while cutting edge 39 cuts the cylinder to produce individual filled food products. The cutter of Makowecki thus does not comprise a dough shaping surface that both severs and shapes the dough. Furthermore, Makowecki does not teach or suggest such a cutter, as Makowecki instead teaches the desirability of providing filled dough products with traditional peripheral boarders. Thus, the teaching of Makowecki cannot be said to render obvious the cutter as is

recited in claims 60-64 and the withdrawal of this rejection is appropriate and is respectfully requested.

This reference has additionally been applied to claims 67-70. Claim 67 has been canceled, and as discussed above, Makowecki does not teach or suggest a cutter comprising a plurality of structures having inner and outer peripheries of different geometries. As such Makowecki cannot be said to render claims 68-70 obvious, and withdrawal of this rejection is appropriate and respectfully requested.

The Examiner has additionally rejected claims 65 and 66 under 35 U.S.C. §103(a) as being unpatentable over Makowecki as applied above, in view of Simelunas. Finally, the Examiner has rejected claim 70 under 35 U.S.C. §103(a) as being unpatentable over Makowecki as applied above, in view of RADEMAKER B.V. Neither of the Examiner's cited secondary references remedy the deficiencies of Makowecki, and thus, these rejections are respectfully traversed.

More specifically, and with respect to claims 65 and 66, Makowecki does not teach or suggest a dough shaping surface that both cuts and shapes the dough, but rather requires both a sealing lip and a cutting edge to perform each function. Nor does Simelunas teach such a dough shaping surface, and as such, the fact that Simelunas may teach a walking or reciprocating head cutter is immaterial, as the combination would still not yet teach or suggest each and every element of 60 from which claims 65 and 66 depend. As such, these claims cannot be said to be obvious over this combination of references, and withdrawal of this rejection is both appropriate and respectfully requested.

With respect to claim 70, and although the Rademaker pamphlet may show a cutter arguably having an inner and outer periphery with different geometries, the shown cutters do not also comprise a cutter edge adjacent to and spaced from the dough shaping surface, wherein the cutter edge is provided on the outer periphery and a dough shaping surface is provided on the inner periphery. Rather, both the inner and outer peripheries of the cutters shown in Rademaker comprise cutting edges to provide dough pieces with a cut-out in the shape of the inner cutting edge. The teachings of the Rademaker pamphlet thus do not remedy the deficiencies of Makowecki et al, and this combination of references cannot be said to render claim 70 obvious. Withdrawal of this rejection is thus appropriate and is respectfully requested.

### CONCLUSION

In view of the above remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance. Approval of the application and allowance of the

claims is earnestly solicited. In the event that a phone conference between the Examiner and the Applicant's undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact said attorney at (651) 351-2900.

No fee is deemed necessary. Should any fee be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same.

Respectfully Submitted,

EVANS ET AL.

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MWB/2000

**Exhibit A**

(Marked-up copy of claim amendments)

60. (Amended) A dough forming and cutting apparatus for shaping and cutting a dough sheet to provide a plurality of dough pieces, the dough sheet for further processing having a first surface with a first skin and a second surface with a second skin, the apparatus comprising:

a movable cutter capable of sequentially and releasably shaping and cutting the dough sheet to provide at least a portion of the plurality of dough pieces and having a blunt dough engaging portion which is at least approximately 6 mm thick and that extends sufficiently to sever the dough sheet, the blunt dough engaging portion having a dough shaping surface to shape and sever the dough sheet;

wherein the dough shaping surface comprises at least a surface portion that is not perpendicular to [its] the direction of extension of the blunt dough engaging portion for engaging against the dough surface and drawing the first skin toward the second skin until they are substantially pinched together before cutting the first skin.

61. (Amended) The apparatus of claim 60, wherein the dough shaping surface of the blunt dough engaging portion comprises a rounded corner having a radius of curvature of at least approximately 3mm as a surface portion that is not perpendicular to the direction of extension of the blunt dough engaging portion.

63. (Amended) The apparatus of claim 60, wherein the dough shaping surface of the blunt dough engaging portion comprises at least one angled surface as a surface portion that is not perpendicular to the direction of extension of the blunt dough engaging portion.

68. (Amended) The apparatus of claim 60, wherein the blunt dough engaging portion further includes a cutter edge provided adjacent to and spaced from the dough shaping surface for serving a dough portion from the dough sheet after the dough portion is shaped by the dough shaping surface, and wherein the cutter edge is provided as a peripheral edge of the cutter with the dough shaping surface within the periphery of the cutter, and the peripheral shape defined by the cutting edge is different from the shape of the dough shaping surface[, when viewed similarly].

71. (Amended) A method of shaping and cutting a dough sheet to sequentially form a plurality of dough pieces; comprising:

- a) providing a sheet of dough having a first surface with a first skin and a second surface with a second skin;
- b) providing a dough cutting apparatus having a movable cutter with a blunt dough engaging portion that extends sufficiently to sever the dough sheet, the blunt dough engaging portion having a dough shaping surface to shape and sever the dough sheet;
- c) causing the dough shaping surface of the blunt dough engaging portion to contact the first surface of the dough sheet and thereby drawing the first skin toward the second skin and substantially pinching the first and second skins together; and
- d) [serving] severing the dough sheet with the blunt dough engaging portion after the first skin and the second skin become substantially pinched together to form at least a portion of the plurality of dough pieces; and
- e) causing the movable cutter to release the at least a portion of the plurality of dough pieces so that the dough pieces may be further processed.

73. (Amended) A method of cutting a dough sheet; comprising:

- e) providing a sheet of dough having a first surface with a skin and a second surface with a second skin;
- f) providing a dough cutting apparatus comprising a plurality of structures having an outer periphery comprising a cutting edge and an inner periphery comprising a blunt edge dough engaging portion with a dough shaping surface, wherein the outer periphery is a geometric figure capable of being nested within other similarly shaped geometric figures and wherein the inner periphery is a different shape [when viewed similarly];
- g) causing the plurality of structures to contact the dough sheet thereby causing the inner periphery to draw the first skin toward the second skin without breaking the dough sheet until the first skin and the second skin become substantially pinched together; and
- h) causing the outer periphery to sever the dough sheet thereby creating a plurality of dough pieces.